

**Notice of Allowability**

Application No.

09/491,549

Examiner

Peter Paras, Jr.

Applicant(s)

BAULCOMBE ET AL.

Art Unit

1632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendments received on 8/25/03 and 10/2/03.
2. ☒ The allowed claim(s) is/are 1, 5-7, 9-15, 17, 21 and 32-34 (renumbered as 1-16).
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☒ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                 |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 6 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>1203</u> . |
| 3 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. <u>0603</u> | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment                         |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material                 | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                   |
|  | 9 <input type="checkbox"/> Other _____   |

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Applicant's amendments received on 10/2/03 and 8/25/03 have been entered.

Claims 1 and 12 have been amended. Claims 1, 5-7, 9-15, 17, 21 and 32-34 are pending and are under current consideration.

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Kathleen Rigaut on 12/11/03.

The specification has been amended as follows:

On page 30, in line 1, the term "Claims" has been deleted and has been replaced with the phrase "We Claim".

In the claims:

In claim 12, in part (b), in line 1, the phrase "which are 21-25 nucleotides in length" has been inserted directly after the term "RNA molecules".

In claim 17, in part (i), the phrase ", wherein said silencing is initiated by introduction of an exogenous nucleic acid" has been inserted directly after the term "plant".

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The claims have been reordered as follows: 1, 5, 6, 7, 9, 10, 11, 21, 32, 33, 34, 12, 13, 14, 15 and 17.

***Oath/Declaration***

Applicant is now required to submit a substitute declaration or oath to correct the deficiencies set forth in the office actions mailed on 8/28/02 and 5/20/03. The substitute oath or declaration must be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability" (PTO-37). Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136. Failure to timely file the substitute declaration (or oath) will result in **ABANDONMENT** of the application. The transmittal letter accompanying the declaration (or oath) should indicate the date of the "Notice of Allowance" (PTOL-85) and the application number in the upper right hand corner.

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Any inquiry concerning this communication or earlier communications from the examiner(s) should be directed to Peter Paras, Jr., whose telephone number is 703-308-8340. The examiner can normally be reached Monday-Friday from 8:30 to 4:30 (Eastern time). The examiner is scheduled to move a new office, on 1/13/2004, having a new telephone number as follows: 571-272-0732.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Reynolds, can be reached at 703-305-4051. Papers related to this application may be submitted by facsimile transmission. Papers should be faxed via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Official Fax Center number is (703) 872-9306.

Inquiries of a general nature or relating to the status of the application should be directed to Dianiece Jacobs whose telephone number is (703) 305-3388.

Peter Paras, Jr.

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**PETER PARAS**  
**PATENT EXAMINER**

A handwritten signature in cursive script that reads "Pete Paras".